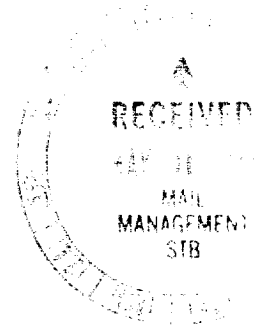


BEFORE THE
SURFACE TRANSPORTATION BOARD



STB Ex Parte No. 582 (Sub-No. 1)
MAJOR RAIL CONSOLIDATION PROCEDURES

U.S. DEPARTMENT OF TRANSPORTATION
OFFICE OF THE ATTORNEY GENERAL

MAY 16 2000

Part of
Public Record

COMMENTS OF THE
EASTERN SHORE RAILROAD, INC.

John D. Heffner
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Dated: May 16, 2000

ORIGINAL

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Ex Parte No. 582 (Sub-No. 1)
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BACKGROUND

On March 31, 2000, the Board served a decision announcing an Advance Notice of Proposed Rulemaking in the above-captioned proceeding. It seeks comments on modifications to its regulations at 49 CFR part 1180, subpart A (49 CFR 1180.0-1180.9) governing proposals for major rail consolidations. That decision set April 20, 2000, as the deadline for filing notices of intent to participate, May 16, as the deadline for initial comments, and June 5, as the deadline for reply comments.

COMMENTER'S INTEREST

Eastern shore Railroad, Inc. ("ESHR") is a class III short line railroad headquartered at Cape Charles, VA, and a quasi-public entity indirectly owned by the Accomack/Northampton Transportation District Commission ("ANTDC"), a political subdivision of the Commonwealth of Virginia.¹ ESHR operates a 63 mile long line of railroad between Pocomoke City, MD, on the north, and Cape Charles, VA, on the south, as well as major rail yards at Cape Charles and Little Creek (Norfolk), VA. ESHR

¹ ESHR was established in 1981 as a subsidiary of Canonic Atlantic Co. which is in turn owned by the Accomack/Northampton Transportation District Commission.

connects at Pocomoke City with Norfolk Southern Railroad's ("NS") Delmarva Peninsula mainline² from Wilmington, DE. ESHR operates one of the only two railroad car float services extant in the country³ connecting Cape Charles to Little Creek and Norfolk,⁴ where ESHR interchanges traffic with both NS and CSX Transportation. As a bridge carrier, ESHR provides a strategic rail link for the Delmarva Peninsula and the Northeastern part of the United States. In conjunction with NS' Delmarva Peninsula trackage, ESHR provides an alternative to class I railroad freight routes between the Northeast and the South, bypassing congested trackage through Baltimore, Washington, D.C., and Richmond, VA. ESHR offers shippers a direct routing free of the clearance restrictions that limit the freight handling abilities which characterize NS's and CSX's other North-South routes along the Eastern Seaboard.⁵

ESHR initially participated in the Board's proceedings

² Formerly owned and operated by Consolidated Rail Corporation ("Conrail") and acquired by NS as part of the rail properties assumed from Conrail.

³ The other is owned and operated by the New York Cross Harbor Terminal Railroad Corporation in the New York Metropolitan Area.

⁴ The distance between Cape Charles and the Norfolk Area is approximately 26 miles.

⁵ NS has operating rights over Amtrak's Northeast Corridor which has clearance restrictions due to electric catenary supports and wires as well as tunnels. CSX's Washington-Philadelphia line has tunnels through Baltimore. Both lines are heavily congested with substantial passenger traffic (on CSX just south of Baltimore). CSX's line is single track north of Baltimore.

in FD No. 33388, involving the acquisition and partition of Conrail by NS and CSX. It eventually withdrew from active participation in those proceedings after NS and CSX expressed their desire to work with ESHR to resolve matters involving traffic and revenue-related concerns. However, its participation in the Conrail Case gave ESHR a taste of STB rail merger proceedings and a desire to ensure that railroad merger applicants and the Board would in the future consider the interests, needs, and capabilities of short line railroads generally.

ESHR has decided not to submit any substantive comments at this time. Rather ESHR appears here to ensure that it receives comments filed by other parties and to protect its right to submit such reply comments on June 5 as might be appropriate to protect its interest, as well as to participate in further proceedings presently scheduled for the Fall of 2000.

As a prelude to its further comments, the Board has identified several issues of keen interest to ESHR. Among others, the Board has asked parties to address the following:

1. Should the Board merely preserve existing competition or actively promote new competition?
2. Should merger applicants be required to maintain existing gateways for all major routings?
3. Should the Board be able to compel interchanges over the most economical routes or via the most economical interchange points?

4. Should merger applicants be required as part of their filings to submit plans for promoting the viability of short line and regional railroads? In that regard the Board should consider the impact of traffic diversion on the viability of those short lines such as ESHR which play an important strategic role as a bridge route.

ESHR agrees with STB Chairman Morgan that short line railroads such as ESHR which operate strategic gateways have an important role to play in relieving class I railroad congestion as well as preserving and promoting competition. ESHR endorses the "Bill of Rights" articulated by the American Short Line and Regional Railroad Association. ESHR looks forward to receiving and reviewing the comments filed by other parties and submitting such responsive comments as may be appropriate on June 5, 2000.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'John D. Heffner', with a long horizontal flourish extending to the right.

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CERTIFICATE OF SERVICE

I hereby certify that I have served the forgoing on all known parties of record on the Service List on this the 16th day of May, 2000.



John D. Heffner